

AN ORDINANCE      **97911**

**DECLARING THE BELGIUM – PICARDIE TO COLISEUM PROJECT (“PROJECT”), LOCATED IN COUNCIL DISTRICT 2, TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE AND/OR EASEMENT INTEREST TO CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS A PART OF THIS PROJECT; TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING DESCRIBED AS: BEING 0.020 OF AN ACRE OF LAND OUT OF LOT 10, N.C.B. 10575, CDS WAREHOUSE SUBDIVISION AND BEING 0.092 OF AN ACRE OF LAND IN N.C.B. 10576, OUT OF THE GUILLERMO NUNEZ SURVEY NO. 151, ABSTRACT 548, AND BEING 0.240 OF AN ACRE OF LAND IN N.C.B. 10576 ALL IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS FOR A PUBLIC PURPOSE AS PART OF THE PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING FUNDS IN THE AMOUNT OF \$65,300.00 FROM 1999 G.O. STREET IMPROVEMENT BOND FUNDS FOR THE PROJECT AND MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEY’S FEES; AUTHORIZING THE CITY STAFF AND/OR ITS DESIGNATED REPRESENTATIVES TO NEGOTIATE WITH AND TO ACQUIRE THE PROPERTY FROM THE OWNERS ON THE APPROVED TERMS; AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY.**

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**WHEREAS,** the City of San Antonio (“City”) desires to reconstruct Belgium from Picardie to SBC Parkway by providing a 36-foot wide, three lane street section; and

**WHEREAS,** the construction of the street widening is a necessary public project; and

**WHEREAS,** the Project is in the best interest of the health, safety and welfare of the public; and

**WHEREAS,** it is necessary to construct a portion of the Project upon property that is privately owned; and

**WHEREAS,** it is further necessary to obtain and acquire the fee simple title and/or an easement interest in three parcels of land for use as part of the Project and the property to be acquired is described as follows:

Parcel No.	Legal	Block	NCB
17489	Being 0.020 of an acre (855 square feet) parcel of land situated in San Antonio, Bexar County, Texas, out of Lot 10, New City Block 10575, CDS Warehouse Subdivision of record in Volume 95562, Page 36 of the Deed and Plat Records of Bexar County		10575
17488	Being a 0.240 of an acre (10,462 square feet) parcel of land situated in New City Block 10576, San Antonio, Bexar County, Texas, out of the remaining portion of a 4.812 acre tract of land conveyed to Basse-Lemp Partners, Ltd. by a Warranty Deed with Vendor's Lien of record in Volume 9054, Page 1441, of the Official Public Records of Real Property of Bexar County		10576
17490	Being 0.092 of an acre (4,022 square feet) parcel of land situated in New City Block 10576, San Antonio, Bexar County, Texas, out of the Guillermo Nunez Survey No. 151, Abstract 548, and out of the remaining portion of a 28.660 acre tract of land conveyed to Mary Lewis Kleberg by a Trustee's Deed of record in Volume 4845, Page 665, of the Official Public Records of Real Property of Bexar County		10576

**WHEREAS**, in order to proceed with the acquisition of the property, it is also deemed necessary and appropriate to establish just compensation for the Property to be acquired; and

**WHEREAS**, independent appraisals for the Property to be acquired have been completed and reviewed by the City's staff of the Real Estate Section of the Public Works Department and a fair market value determined for the Property; and

**WHEREAS**, title fees, legal fees, appraisal fees, right of entry fees, miscellaneous expenses to prepare each parcel for use, and lender fees will have to be paid as necessary expenses for the completion of the Project; and

**WHEREAS**, funds are available to acquire the necessary right of way and pay the necessary expenses for this project; **NOW THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The Belgium – Picardie to Coliseum Project is hereby declared to be a necessary public project.

**SECTION 2.** The City Council of the City of San Antonio finds a public necessity exists to acquire the fee simple title to and/or easement(s) in certain privately owned real property, by negotiation and/or condemnation, if necessary, for the location, construction, operation, reconstruction, improvement, repair and maintenance of public improvements including but not limited to street, drainage and/or utility improvements as part of the Belgium – Picardie to Coliseum Project in San Antonio, Bexar County, Texas.

**SECTION 3.** A specific public necessity exists to acquire by negotiation and/or condemnation, if necessary, the property more specifically described in **Attachment I** attached hereto and incorporated herein for all purposes. Collectively, the properties may be referred to as the “Property.”

**SECTION 4.** The approved compensation for the Property is shown in **Attachment II** which is attached hereto and incorporated herein for all purposes.

**SECTION 5.** The budget in Fund No. 45-972095, 1999 Street Improvement Bonds, Sold in 2001, shall be revised by reducing Index Code 695577, entitled “Unallocated Appropriations”, in the amount of \$65,300.00.

**SECTION 6.** The budget in Fund No. 45-972042, 1999 Street Improvement Bonds, Sold in 2001, shall be revised by increasing Index Code 941781, entitled “Transfer to 45-979056”, in the amount of \$65,300.00. The amount of \$65,300.00 is authorized to be transferred from Fund 45-972042 to Fund 45-979056.”

**SECTION 7.** The budget in Fund No. 45-979000, 1999 Street Improvements, shall be revised by increasing Index Code 134726, entitled Trf Fr 45-972042 (45-979056) Belgium, by the amount of \$65,300.00 and is appropriated and encumbered as follows:

- a) The amount of \$20,000.00 is appropriated in Fund No. 45-979056, 1999 Street Improvements in Index Code 313155 entitled “Land Acquisition”, and is authorized to be encumbered and made payable for miscellaneous land acquisition expenses.
- b) The amount of \$9,000.00 is appropriated in Fund No. 45-979056, 1999 Street Improvements, in Index Code 313171 entitled “Miscellaneous (Awnings, Fences, Etc.)”, and is authorized to be encumbered and made payable for miscellaneous expenses.
- c) The amount of \$3,000.00 is appropriated in Fund No. 45-979056, 1999 Street Improvements in Index Code 313189, entitled “Title Fees”, and is authorized to be encumbered and made payable for miscellaneous title fee expenses.
- d) The amount of \$30,000.00 is appropriated in Fund No. 45-979056, 1999 Street Improvements in Index Code 313197, entitled “Legal Fees”, and is authorized to be encumbered and made payable for miscellaneous legal fee expenses.
- e) The amount of \$3,000.00 is appropriated in Fund No. 45-979056, 1999 Street Improvements in Index Code 313403, entitled “Lender Fees”, and is authorized to be encumbered and made payable for miscellaneous lender fee expenses.
- f) The amount of \$300.00 is appropriated in Fund No. 45-979056, 1999 Street Improvements in Index Code 313411, entitled “Right of Entry Fees”, and is authorized to be encumbered and made payable for miscellaneous right of entry fee expenses.

**SECTION 8.** The City staff is hereby directed to negotiate with the owner(s) of the respective parcels for the acquisition of the Property at fair market value as found in Section 4, above, to execute sales agreements purchasing the property from the owners as the owner’s are identified by a Commitment for Issuance of Title Insurance issued by a title insurance company authorized

to conduct such practice in the State of Texas and in Bexar County or by order of a Court of competent jurisdiction and to finalize such purchases on behalf of the City of San Antonio. The City Council finds that it is in the best interest to obtain the Property from whomever holds legal and equitable title as identified according to the procedure adopted through this Ordinance and the Director of Finance is directed to disburse funds in accordance herewith.


**SECTION 9.** That in the event that the City staff is unable to acquire one of more parcels of the Property by negotiation by reason of its inability to agree with the owners thereof as to the value of the parcels, or is unable to acquire the parcels for any other reason, the City Manager, through the City Attorney and/or designated special counsel under the direction of the City Attorney, are hereby authorized and directed to institute and prosecute to conclusion all necessary proceedings to condemn the property. The City Attorney is hereby authorized to retain the services of the law firm of Davidson & Troilo, P.C. and the law firm of Bracewell & Patterson, L.L.P. as special counsel as may be needed from time to time and to pay the for services rendered from the appropriations set aside herein or such other appropriations as may be made for the purpose.

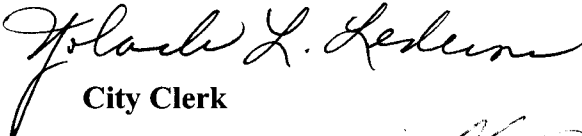
**SECTION 10.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocation to specific Index Codes and fund numbers as necessary to carry out the purpose of this Ordinance.

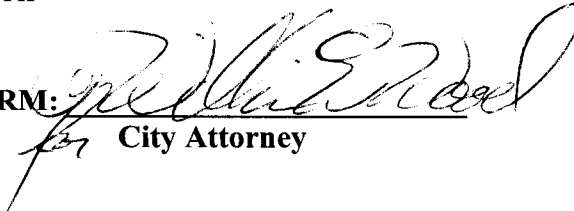
**SECTION 11.** A copy of the respective instruments shall be submitted to the City Attorney for approval under Section 54, Charter of the City of San Antonio. If the City Attorney approves the instrument then the City of San Antonio accepts title to the respective property upon closing of this transaction.

**SECTION 12.** This ordinance shall take effect on the 17th day of August 2003.

**PASSED AND APPROVED** this 7th day of August, 2003.

  
M A Y O R  
EDWARD D. GARZA

ATTEST:   
City Clerk

APPROVED AS TO FORM:   
City Attorney